

**REMARKS****Claim Status**

Claims 1, 3-6, and 12-21 are pending in the application. This paper does not amend, cancel, or add claims. Claims 1, 12, and 17 are the independent claims of the application.

**Art Rejections**

The Final Office Action rejected all pending claims of the application under 35 U.S.C. § 102 as being anticipated by Malmgren *et al.*, International Patent Publication Number WO 00/22865 (“Malmgren” hereinafter). With respect to independent claims 1, 12, and 17, the Final Office Action stated that “Malmgren discloses selecting physical and media access control (MAC) parameters for automatic retransmission, the physical and MAC parameters for the downstream portion being selected independently for each customer premises equipment of the plurality of customer premises equipment and physical and MAC parameters for the upstream portion being selected independently for said each customer premises equipment” in figures 1 and 2, and in column 8, lines 28-33. (Applicant understands this and other citations to Malmgren’s “columns” to refer to corresponding pages of that document.) The Final Office Action further cited Malmgren at “column” 2, lines 1-15; “column” 7, lines 24-33; “column” 9, lines 10-16; and claims 2, 4, 6, 13, and 18 as disclosing all limitations of the independent claims.

For convenience of discussion, independent claim 1 is set forth below.

1. (Previously Presented): A method of controlling selection of parameters for automatic retransmission in a point-to-multipoint wireless communication link having an upstream portion for communicating data from a plurality of customer premises equipment (CPE) to a base station controller (BSC) and a downstream portion for communicating data from the base station controller to the plurality of customer premises equipment, the method comprising the steps of:

selecting physical and media access control (MAC) parameters for automatic retransmission, the physical and MAC parameters for the downstream portion being selected independently for each customer premises equipment of the plurality of customer premises equipment and physical and MAC parameters for the upstream portion being selected independently for said each customer premises equipment; and

including the physical and MAC parameters in a control section of a frame, the control section for sending control information downstream.

In accordance with claim 1, selection of physical and media access control parameters for the upstream portion (from CPE to BSC) is performed “independently for said each customer premises equipment.” The parameters are then included “in a control section of a frame, the control section for sending control information downstream.” Thus, parameters must be selected independently for each CPE (of the plurality of CPEs) transmitting upstream. In contrast, the base station of one of Malmgren’s embodiments broadcasts a single PHY parameter setting to adapt an entire cell:

Fig. 2 is a diagram illustrating an exemplary embodiment of a frame structure in accordance with the present invention suitable for a TDMA/TDD radio communication system with centrally controlled assignment of capacity. In this embodiment radio cell adaptation parameters are only transmitted in the BCCH (or some other permanent or temporary “control channel” for broadcasting messages). This embodiment may assume that the BS has all information necessary to make a decision on a single PHY parameter setting (e.g. code rate, modulation alphabet, time slots/frame) without any interaction (no explicit uplink signalling [sic]) with the MTs).

Statistics of the PER, delay spread, received signal strength, SIR and BER

could for example be used in the selection procedure. The measurements could be performed on the traffic and control data PDUs (Protocol Data Units) that are received at the BS. The single PHY parameter setting (which is dynamically varying) could be used for some or all connections, as indicated by the dashed arrows 10, 12, 14 and 16 in fig. 2. One nice feature of this embodiment is that all PDUs of the same type will have the same size and the assignment of capacity resources becomes easier.

Since a common indicator is used for all links, it is appreciated that the embodiment in fig. 1 implements radio cell adaptation.

Malmgren, page 7, line 19, through page 8, line 7 (emphasis added). Notice that Malmgren expressly defines the expression “radio cell adaptation,” which is used in the text quoted above: “Just an adaptation per radio cell to handle this situation is referred to as ‘radio cell adaptation’.” Malmgren, page 1, lines 24-25 (emphasis added). Radio cell adaptation is performed per cell, not per mobile transmitter.

Similarly, in another Malmgren’s embodiment, “a single PHY mode is used in the uplink for all MTs, as indicated by dashed arrows 10, 12.” Malmgren, page 8, lines 16-17.

It follows that in Malmgren, a single PHY parameter setting sent from the base station to mobile terminals is the same for each of “some or all connections.” Therefore, the parameter is not selected independently for each CPE, but rather is selected for a plurality of mobile terminals.

At least for this reason, Malmgren does not anticipate independent claim 1. Independent claims 12 and 17 recite limitations similar to those discussed above in relation to claim 1, and are not anticipated by Malmgren for the same reason as claim 1. Dependent claims should be patentable together with their respective base and intervening claims, if any.

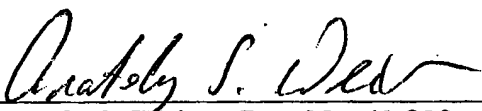
**CONCLUSION**

For the foregoing reasons, Applicant respectfully submits that the pending claims of the present application are patentable over the art of record. To discuss any matter pertaining to the application, the Examiner is invited to call the undersigned attorney at (858) 720-9431.

Having made an effort to bring the application in condition for allowance, a timely notice to this effect is earnestly solicited.

Respectfully submitted,

Dated: 7/29/2005

  
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